

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 6, 2003

DIVISION ONE

B151339 Lewis M. Dalgarn (Not for Publication)

v.

Robbins, Dalgarn, Berliner & Carson, et al.

The judgment is affirmed. The postjudgment orders are modified to reflect that none of the parties are entitled to attorney's fees under Civil Code section 1717 and, as so modified, are affirmed. The parties are to bear their own costs and attorney's fees on appeal.

Mallano, J.

We concur: Spencer, P.J.
 Ortega, J.

DIVISION TWO

B164276 Sanders (Not for Publication)

v.

Deitch

The appeal is dismissed. The parties shall bear their own costs.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION TWO(Continued)

B162108 Dale (Not for Publication)

V.

Teminix International Company

The order denying Terminix's petition to compel arbitration is reversed. Terminix shall recover its costs on appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.

Doi Todd, J.

B163317 Stalion Jewelry, Inc. (Not for Publication)

V.

Certain Underwriters at Lloyds, et al.

Summary judgment is reversed and the matter is remanded. Stallion shall recover its costs on appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.

Doi Todd, J.

B157911 Vandevort (Not for Publication)

V.

Robert E. McKee, Inc., et al.

The order is affirmed. McKee and Fidelity shall recover their costs on appeal.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.

Doi Todd, J.

DIVISION TWO (Continued)

B158781 Walker (Not for Publication)
v.
Ala Nest, Inc., et al.

The judgment of the trial court is affirmed. Respondents are entitled to their costs on appeal.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

B162345 People (Not for Publication)
v.
Fanning

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

DIVISION THREE

B168498 People (Not for Publication)
v.
Williams

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
Aldrich, J.

DIVISION THREE (Continued)

B161162 Marcia Cloobek (Not for Publication)
B162240 v.
Sheldon Cloobek

The judgment is affirmed. Respondent(s) to recover costs.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

B155492 Randy Walter (Not for Publication)
v.
Kia Motors America, Inc., et al.

The order is reversed with directions to the trial court to enter a default judgment against MBC AdCom in the sum of \$4,500, plus reasonable attorney fees and costs. The trial court is also directed to conduct further proceedings to ascertain the amount of attorney fees and costs to be awarded to Walter. Walter is to bear his own costs on appeal.

Aldrich, J.

We concur: Croskey, Acting P.J.
Kitching, J.

B163458 Mary McFadden (Not for Publication)
v.
California State Personnel Board, et al.

The judgment is affirmed. Each party to bear their own costs.

Croskey, Acting P.J.

We concur: Kitching, J.
Aldrich, J.

DIVISION THREE (Continued)

[illegible]

The judgment is modified by vacating appellant's sentence on count four (the Vasquez count) and the trial court's award of Penal Code section 4019 conduct credit, and the matter is remanded for the limited purpose of permitting the trial court to exercise its discretion to impose concurrent or consecutive sentencing on count four, and to recalculate and award Penal Code section 4019 conduct credit. As modified, the judgment is affirmed. The trial court is directed to forward an amended abstract of judgment to the Department of Corrections.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B165721 L.A. County Dept. of Children and Family Services (Not for Publication)
v.
B.L.

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B159596 Tom Cychner, et al. (Not for Publication)
v.
Food 4 Less Holdings, Inc., et al.

The judgment is affirmed. Plaintiffs' request for an award of attorney fees incurred on appeal is denied. Respondent(s) to recover costs.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B162637 John H. Hugo (Not for Publication)
v.
State Farm Mutual Automobile Insurance Company

For the reasons stated, the August 29, 2002, order of dismissal in which the trial court (1) vacated its original order granting Hugo's petition to compel arbitration, (2) dismissed the petition to compel arbitration with prejudice, and (3) terminated the arbitration proceedings, is reversed. The matter is remanded with directions to vacate the August 29, 2002 order, and refer this motion to the arbitrator for consideration and ruling on the merits, and if necessary, for apportionment of the arbitration fees and costs associated with ruling on the motion. Hugo is awarded costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FIVE

B162688 Michael Quintana (Certified for Partial Publication)
v.
Gregg Gibson

The order granting Defendant Gregg Whitaker Gibson's motion to compel acknowledgment of satisfaction of judgment is affirmed, provided within 30 days after the remittitur is filed in superior court, Defendant files in superior court proof of payment of \$1,400.23 to Plaintiff Michael Quintana's attorney. If no such proof of payment is filed within the prescribed time, or such further time as the trial court shall for good cause allow, the order is reversed. In the interests of justice, the parties shall bear their own costs on appeal.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

November 6, 2003 (Continued)

DIVISION FIVE (Continued)

B165686 People (Not for Publication)
v.
Ricardo Mejia

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Mosk, J.

B163269 People (Not for Publication)
v.
Robert Brittain

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B164301 People (Not for Publication)
v.
Theodaris Oliver

The judgment is modified to stay the sentence as to count 3 pursuant to Penal Code section 654, subdivision (a). The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

DIVISION FIVE (Continued)

B164255 People (Not for Publication)
v.
Harold Douglas Singleton Jr.

The judgment is modified to reflect conviction under Penal Code section 647.6, subdivision (c)(2) in counts 1 through 6. Defendant's sentence on count 1 is modified to reflect a term of 12 years. Defendant's sentence on counts 3 and 5 is modified to reflect a term of 2 years 8 months each. As modified, the judgment is affirmed. The clerk of the superior court is directed to prepare a modified abstract of judgment reflecting these changes and forward it to the Department of Corrections.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B160754 People (Not for Publication)
v.
Daniel McCoy

The order revoking defendant's probation and directing execution of the previously imposed three-year state prison sentence is reversed. The trial court is directed to enter a new and different order, permitting defendant to remain on probation and exercising its discretion as to any modifications to the conditions of probation, such as additional participation in a drug treatment program.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B162779 Robert Schmidt (Not for Publication)
 v.
 Sophie Lampros

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

B164514 People (Not for Publication)
 v.
 Alvaro Garcia

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.
 Mosk, J.

B163235 People (Not for Publication)
 v.
 Leslie Williams et al

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

November 6, 2003 (Continued)

DIVISION FIVE (Continued)

B164596 People (Not for Publication)
v.
Miguel Lopez

The abstract of judgment is ordered corrected to show that appellant's term for the section 12022.53, subdivision (d) enhancement is 25 years to life. The judgment is affirmed in all other respects.

Armstrong, J.

We concur: Grignon, Acting P.J.
Mosk, J.

B160828 I-Tel Publishing Corp. (Not for Publication)
v.
Gene Spektor
Stephen Hollingsworth

The judgment is reversed. Appellant(s) to recover costs.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

B165412 People (Not for Publication)
v.
Howard Lockhart

The judgment of conviction is affirmed. The sentence is reversed. Upon issuance of the remittitur, the trial court is to hold a competency trial in compliance with Penal Code section 1368 et seq. If defendant is competent to undergo sentencing, he is to be sentenced.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

November 6, 2003 (Continued)

DIVISION FIVE (Continued)

B164799 People (Certified for Partial Publication)
v.
Kevin S.

The juvenile court's January 27, 2003, dispositional order is modified to reflect 333 days of predisposition credit. In all other respects, the dispositional order is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

DIVISION SIX

B166226 People (Not for Publication)
v.
Wagemaker

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

B160991 People v. Franco (Not for Publication)

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

DIVISION SIX (Continued)

B170705 Human Services Agency
 v.
 Annette C.

Filed order dismissing appeal; untimely.

DIVISION SEVEN

Court convened at 9:00 A.M.

Present: Perluss, P.J., Johnson, J., Woods, J., Zelon, J. and Eva McClintock, Deputy Clerk.

Each of the following:

B158017 People v. Merino
B159623 People v. Ware
B159884 People v. Kunkler
B159913 People v. Marshall
B160076 People v. Gracida
B160886 People v. Talmadge & Sheard
B161003 People v. Asakura
B161013 People v. Sotomayor
B162516 People v. Hampton
B162622 People v. Richard
B162764 People v. Withers
B164737 People v. Diaz
B162521 People v. Nguyen

Argument waived, cause submitted.

B159985 People
 v.
 Sutherland

Merits:

Argued by William Flenniken for appellant and by James Bilderback, Deputy Attorney General for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B162335 People
 v.
 Azrine

Merits:
Argued by David Goodwin for appellant and by Tita Nguyen, Deputy
Attorney General for respondent. Cause submitted.

Court recessed at 9:30 A.M.

Court reconvened at 10:00 A.M.

Present: Perluss, P.J., Johnson, J., Woods, J., Zelon, J. and Eva McClintock, Deputy
Clerk.

B162955 Rondinelli v. Ralphs

Argument waived, cause submitted.

B159312 Frenchman, et al.
 v.
 LA Unified School District

Merits:
Argued by Gary Bacio for appellant and by Dale Galipo for respondents.
Cause submitted.

B159845 Ogner Motorcars
 v.
 Valley Park Ford

Merits:
Argued by David Lane for appellant and by Kenneth Bley for respondent.
Cause submitted.

DIVISION SEVEN (Continued)

B157149 King Purtich Holmes, et al.
 v.
 Barton Properties, et al.

Merits:
Argued by Edward Horowitz for appellants and by Alan Weil for
respondents. Cause submitted.

Court recessed at 11:49 A.M.

Court reconvened at 1:30 P.M.

Present: Perluss, P.J., Johnson, J., Woods, J., Zelon, J. and Eva McClintock, Deputy
Clerk.

B158894 Weinberg, et al.
 v.
 Safeco Insurance Co.

Merits:
Argued by Raymond Goettsch for appellant and by Ian Herzog for
respondents. Cause submitted.

B159689 Ritchie
 v.
 Konrad

Merits:
Argued by Daniel Ritkes for appellant and by Thomas Robins for
respondent. Submission is deferred pending filing of additional letter
briefs. Appellant's brief due in 10 days and respondent's brief is due 10
days thereafter.

DIVISION SEVEN (Continued)

B167843 Hicks, et al.
 v.
 Superior Court, Los Angeles County
 (Kaufman & Broad Home, r.p.i.)

Merits:
Argued by Michael Singer for petitioners and by Douglas Rawlings and
John O'Hara for real parties in interest. Cause submitted.

B167044 Jevne, et al.
 v.
 Superior Court, Los Angeles County
 (JB Oxford Holdings, et al., r.p.i.)

Merits:
Argued by Erick Woosley, Amy Winn, Deputy Attorney General and
David Ettinger for petitioners and by W. Richard Sintek and Mark Perry for
real parties in interest. Cause submitted.

Court adjourned at 5:26 p.m.

B162900 Slauson Partnership
 v.
 Ochoa

Filed order modifying opinion. (No change in the judgment)

DIVISION EIGHT

B154884 Mel Bernia & Company, Inc., et al.
 v.
 Reinstei & Calkins, et al.

Filed order modifying opinion. (No change in the judgment)